



April 4, 2005

To: Telephone and Telegraph Filers
FROM: Marilyn H. Browne, Chief
Bureau of Local Assessment
COPY: Boards of Assessors
TOPIC: **FY2006 Supplemental Telephone and Telegraph Return (for Certain Limited Liability Companies)**

Error on Form 5941 and Filing Instructions Posted February 8, 2005

As a result of an error on the Form 5941 and filing instructions, certain telephone company LLCs treated as business corporations for Massachusetts local property tax purposes were incorrectly advised to list only poles and wires over private property, as well as other taxable property. In fact, such companies were also legally required to list poles and wires over public ways. This is because the exclusion of poles and wires over public ways from valuation and assessment applies only to actual "corporations", as provided in GL c. 59, §18, cl. 5 , and not to corporations as defined in GL c. 63, §30.1 and 30.2 (which includes such LLCs).

Due to the error, such LLCs must provide a supplemental list of such property, unless previously included in a return already filed, or the company has no such property, in which cases a notice of such facts must be filed.

Filing Deadline

On or before April 15, 2005, every telephone and telegraph company doing business in the Commonwealth as a limited liability company (LLC) that files an election to be treated as a corporation for federal income tax purposes, or is a single member LLC that elects to be treated as a disregarded entity for federal income tax purposes, and whose single member is an S corporation, is required to file a supplemental return of property to the Commissioner of Revenue listing taxable poles and wires situated over public ways in each municipality as of January 1, 2005, unless such company has previously included such information in a previously filed return.

In the latter case, such company should file a notice that the previously filed return included poles and wires over public ways, signed by the treasurer or other designated representative, by the April 15, 2005 filing deadline. If such company has no such property to report, it should file a notice to that effect, signed by the treasurer or other designated representative, by the April 15, 2005 filing deadline.

FY06 Supplemental and Amended Central Valuation Reporting Forms

Supplemental reports should be made on the spreadsheet Form 5941 already available on the Internet at www.dls.state.ma.us/bla. The spreadsheet portion of the return uses drop down menus to assist you in the selection process. After entering the property cost data the spreadsheet will generate proposed values for the upcoming year. These proposed values are subject to review, verification and modification by the Bureau of Local Assessment. An amended Form 5941 has also been posted to the website reflecting the changes referred to herein.

The supplemental spreadsheet Form 5941 must be submitted electronically in the Excel format requested to bladata@dor.state.ma.us along with a printed and signed copy. There is no need to file an amended Form 5941. Failure to provide all required information will cause the return to be treated as an incomplete filing.

Amended FY06 Reporting Requirements Based on the Entity Status of the Company

Taxable telephone and telegraph property subject to central valuation will vary, depending on the form of legal entity owning the property, based on the RCN decision and applicable general laws. The following AMENDED TABLE shows the telephone/telegraph property that must be reported to the Commissioner, based on the form of legal entity of the owner. *If you have any questions about the taxable status of your personal property, contact Walter Sandoval Dusza at 617-626-4087.*

Legal Form of Owner of Property	Taxable Telephone Personal Property Reported to the Commissioner (Form 5941)
Corporation	<ul style="list-style-type: none">• Poles and wires over private property• Underground conduits, wires and pipes in public or private property• Electric generating machinery
Limited Liability Company (LLC) filing a federal return as a corporation LLC or other entity electing to be treated federally as a disregarded entity and whose sole member is a S corporation	<ul style="list-style-type: none">• All poles, wires, underground conduits, wires and pipes situated in Massachusetts• Machinery used in the conduct of the telephone and telegraph business, which includes<ul style="list-style-type: none">○ electric generators○ switching equipment and○ routers,• but <u>does not include</u> machinery that is<ul style="list-style-type: none">○ stock in trade of the company (machinery sold or leased in the usual course of business) or○ directly used in purchasing, selling, accounting or administrative functions
Other legal entity, including: <ul style="list-style-type: none">• Partnership• Association• Trust LLC filing a federal return as a partnership or a disregarded entity (except a single member LLC or other entity whose single member is a S corporation)	<ul style="list-style-type: none">• All poles, wires, underground conduits, wires and pipes situated in Massachusetts• All machinery, including electric generators, switching equipment and routers, used for telephone and telegraph service purposes